

Walter P. Loughlin
Attorney-at-Law
1225 Park Avenue
Suite 3D
New York, New York 10128
Tel. (203) 216-3445
walter.loughlin@gmail.com

July 13, 2020

By ECF

Honorable Nelson S. Roman
United States District Judge
United States Courthouse
300 Quarropas Street
White Plains, New York 10601

Re: United States v. Joseph Scali, 16 Cr. 466 (NSR)

Dear Judge Roman:

On July 2, 2020, the Court denied Mr. Scali's motion for compassionate release, pursuant to 18 U.S.C. §3582, for lack of jurisdiction because of Mr. Scali's pending appeal from his judgment of conviction. Specifically, the Court stated that "[J]urisdiction over the question raised in the section 3582 motion [was] transferred to the Second Circuit" when Mr. Scali filed a notice appeal. (Dkt. 295) Consistent with that ruling, I was preparing a motion for compassionate release for filing in the Court of Appeals when on July 8, 2020, only six days after Your Honor's ruling, the Court of Appeals issued a summary order affirming the judgment of conviction. *United States v. Scali*, Dkt. 19-912 (2d Cir. July 8, 2020).

As a consequence, I respectfully request that Your Honor decide Mr. Scali's motion on the merits based on the full briefing and other submissions previously filed. Mr. Scali's pursuit of appellate review of his judgment of conviction, which caused the Court to question its judicial power to rule on the merits of this motion, is no longer an impediment to the Court's jurisdiction.

In connection with the Court's review of these issues, there are two additional points I wish to call to the Court's attention. First, because the sentencing factors set out at 18 U.S.C. §1553 are relevant to a motion for compassionate release, the length of a defendant's sentence and the percentage of that sentence served, is of relevance as well. In that connection, I have included in this submission the Bureau of Prisons Sentence Computation Data for Mr. Scali as of June 17, 2020. That document shows that Mr. Scali earned 379 days credit—over one year off his 7-year sentence—for the period he was detained before this Court imposed that sentence. It also shows that he has already earned 108 days of good time.

Because Mr. Scali is 71 years of age, he may be entitled to release as an elderly offender under the First Step Act, Pub. L. 115-391 (2018), which allows for the release of eligible persons

after the service of two-thirds of a defendant's sentence. The BOP calculates that date to be October 22, 2022—two years and four months from now. It also shows that Mr. Scali has served nearly 40% of his statutory time.

Second, in the event that the Court is not persuaded to grant the motion, I request the Court recommend that the Bureau of Prisons consider Mr. Scali for a furloughed transfer to home confinement—as two other judges in this district have done with respect to other defendants making similar motions. Judge Liman made a recommendation to BOP for the temporary release of the defendant before him “in the strongest possible language” in *United States v. Schaefer*, No. 7 Crim. 498 (S.D.N.Y. April 29, 2020). Similarly, Judge Ramos recently stated: “The Court strongly recommends that BOP consider whether a furlough would be appropriate” in *United States v. Mieri*, No. 15 Cr. 627 (S.D.N.Y. July 2, 2000). In April, Mr. Scali was placed in a pre-release quarantine while he was considered for a furlough. Although the period of the quarantine was extended, and preliminary approval of the furlough occurred, final approval was withheld at that time. Mr. Scali has been back in quarantine since mid-June due to the outbreak of COVID-19 which has infected at least 23 inmates from the Otisville Satellite Camp—several of whom tested positive after being quarantined. Mr. Scali has been tested twice in the past month; the results have been negative. Mr. Scali would be far safer from infection sheltering at home than he is now in an incarceration setting.

Respectfully submitted,

/s/ Walter P. Loughlin
Walter P. Loughlin

cc: All Counsel of Record (Via ECF)

OTVIJ 540*23 *
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SENTENCE MONITORING
COMPUTATION DATA
AS OF 06-17-2020

* 06-17-2020
* 15:46:27

REGNO...: 77891-054 NAME: SCALI, JOSEPH

FBI NO.....: 767949AE0
ARS1.....: OTV/A-DES
UNIT.....: CAMP
DETAINEES.....: NO

DATE OF BIRTH: 05-08-1949 AGE: 71
QUARTERS.....: E05-502L
NOTIFICATIONS: NO

HOME DETENTION ELIGIBILITY DATE: 08-07-2023

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.
THE INMATE IS PROJECTED FOR RELEASE: 02-07-2024 VIA GCT REL

-----CURRENT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: NEW YORK, SOUTHERN DISTRICT
DOCKET NUMBER.....: 7:S2 16CR00466-01 (N)
JUDGE.....: ROMAN
DATE SENTENCED/PROBATION IMPOSED: 03-06-2019
DATE COMMITTED.....: 04-30-2019
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED..:	\$1,000.00	\$00.00	\$00.00	\$00.00
RESTITUTION...:	PROPERTY: NO	SERVICES: NO	AMOUNT: \$1,511,534.73	

REMARKS.....: DOCKET #7:S2 16CR00466-01 (NSR)

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE.....: 150 FRAUD POSTAL
OFF/CHG: 18:371 MAIL FRAUD(CT1,10); 31:5324(A) (3) STRUCTURING TO EVADE
CURRENCY TRANSACTION REPORTS(CT2); 18:1001 FALSE STATEMENTS
26:7212(A) OBSTRUCTION OF THE INTERNAL REVENUE LAWS(CT5)
26:7201 TAX EVASION(CT6,7); 18:1503 OBSTRUCTION OF JUSTICE(CT8)
18:1623 PERJURY(CT9)

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE..: 84 MONTHS
TERM OF SUPERVISION.....: 3 YEARS
DATE OF OFFENSE.....: 07-08-2016

G0002 MORE PAGES TO FOLLOW . . .

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SENTENCE MONITORING
COMPUTATION DATA
AS OF 06-17-2020

* 06-17-2020
* 15:46:27

REGNO...: 77891-054 NAME: SCALI, JOSEPH

-----CURRENT COMPUTATION NO: 010 -----

COMPUTATION 010 WAS LAST UPDATED ON 02-25-2020 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 05-16-2019 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 03-06-2019
TOTAL TERM IN EFFECT.....: 84 MONTHS
TOTAL TERM IN EFFECT CONVERTED...: 7 YEARS
EARLIEST DATE OF OFFENSE.....: 07-08-2016

JAIL CREDIT.....:	FROM DATE	THRU DATE
	07-08-2016	07-20-2016
	03-05-2018	03-05-2019

TOTAL PRIOR CREDIT TIME.....: 379
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED...: 379
TOTAL GCT EARNED.....: 108
STATUTORY RELEASE DATE PROJECTED: 02-07-2024
TWO THIRDS DATE.....: 10-22-2022
EXPIRATION FULL TERM DATE.....: 02-19-2025
TIME SERVED.....: 2 YEARS 3 MONTHS 26 DAYS
PERCENTAGE OF FULL TERM SERVED...: 33.2
PERCENT OF STATUTORY TERM SERVED: 38.9

PROJECTED SATISFACTION DATE.....: 02-07-2024
PROJECTED SATISFACTION METHOD....: GCT REL

REMARKS.....: 02-25-20: UPD FOR FSA/GCT D/LLF

G0000

TRANSACTION SUCCESSFULLY COMPLETED